

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SHAWN THOMAS MOORE, : CIVIL ACTION No. 14-870
Plaintiff, :

V. : JUDGE DAVID S. CERONE

SUSEN ROSSINO, M.D.; :
BRIAN LUFFEY; PRIMECARE : MAGISTRATE JUDGE MAUREEN KELLY
MEDICAL INC. :

Defendants : JURY TRIAL DEMANDED

AMMENDED COMPLAINT (SECOND)

I. JURISDICTION AND VENUE

1.) This is a civil action authorized
by 42 U.S.C. § 1983 to redress the
deprivations, under color of state
law, of rights secured by the
Constitution of the United States.

(2)

The court has jurisdiction under 28 U.S.C. § 1331 and 1343 (a) (3).

Plaintiff seeks declaratory relief pursuant 28 U.S.C. § 2201 and 2202.

2.) The Western District of Pennsylvania is an appropriate venue under 28 U.S.C. § 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFF

3.) Plaintiff, SHAWN THOMAS MOORE, is and was at all times mentioned herein a pretrial detainee in the

③

state of Pennsylvania in the custody of the Lawrence County Jail where he remains awaiting trial.

III. DEFENDANTS

4.) Defendant, Dr. Susan Rassino, is the doctor here at the Lawrence County Jail employed through PrimeCare Medical Inc., and is responsible for health and well being of all inmates and pretrial detainees.

5.) Defendant, Brian Lottey, is an Administrator for PrimeCare Medical Inc. at the Lawrence County Jail.

(4.)

6.) Defendant, PrimeCare Medical Inc., is a private company contracted through the Lawrence County Jail to provide medical care to its inmate patients.

7.) Each defendant is sued individually and in his or her official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

IV. FACTS

8.) Plaintiff, Shawn Thomas Moore, has been at all times described herein a pretrial detainee at the

(5.)

Lawrence County Jail since June 14th, 2012.

- 9.) Plaintiff has had Hepatitis C (subtype 1-A) since 1996.
- 10.) Hepatitis C is a very serious medical condition.
- 11.) Hepatitis C left untreated can cause severe liver damage, cirrhosis, and even death.
- 12.) Plaintiff is in need of an evaluation with a physician who is experienced and qualified in treating the disease.
- 13.) Plaintiff's condition is symptomatic.

(6.)

14.) Plaintiff is in need of treatment for this very serious medical condition.

15.) Hepatitis C is a progressive disease that left untreated causes liver damage, Cirrhosis, and even death.

16.) Plaintiff has had constant moderate to severe pain in his liver.

17.) Defendant Susan Rossino has done nothing to treat the plaintiffs Hepatitis C.

18.) Defendant Susan Rossino has done nothing to treat the plaintiffs pain.

(7)

19.) As a result of the plaintiffs untreated pain and Hepatitis C, he has been bed-ridden for up to twenty to twenty two hours per day.

20.) As a result of the plaintiff being bed-ridden he has gained seventy-five pounds.

21.) Defendant, Susan Rossino, has done nothing to address plaintiffs massive weight gain, not even a low-fat diet.

22.) Plaintiff has been suffering severe anxiety due to his untreated medical conditions.

(8.)

23.) Plaintiff is in need of treatment to prevent exacerbation and further irreparable harm to his liver.

24.) Plaintiff has been given blood tests that all show his Hepatitis C is symptomatic and in need of treatment.

25.) Plaintiff has submitted several "sick call" slips regarding pain in his liver with no relief from the medical staff or Susan Kassino.

26.) Plaintiff has submitted "sick call" slips regarding increased

(9.)

pain in his liver with no relief from the medical staff or Susan Rossino.

27.) Defendant, Susan Rossino, M.D., did tell the plaintiff in the fall of 2012 that they would not treat his Hepatitis (while he was at the jail.

28.) Defendant, Susan Rossino, M.D., has asked the plaintiff every time she has seen him, how much longer he will be at the jail.

29.) Each time plaintiff was asked how much longer he would be at the jail his response has been, two years.

(10.)

30.) Primecare Medical Inc., has, by refusing to treat inmates with Hepatitis C, a custom, practice, or policy of being deliberately indifferent inmates serious medical needs.

31.) Plaintiff was given a sonogram test and an X-Ray of his ribs around his liver to rule out other potential causes of pain in his liver.

32.) Both the sonogram and X-Ray came back negative leaving plaintiff's liver as the source of his pain.

33.) On 11/22/12, plaintiff filed

(11.)

a grievance in accordance with both the Jail Handbook and the Prison Litigation Reform Act. (See Exhibit "A")

34.) On 11/24/12, plaintiff filed an addendum to his 11/22/12 grievance, pleading with Warden Brian Covert to take action on his behalf. (See Exhibit "B").

35.) On 11/28/12, plaintiff received a response to his grievance from PrimeCare Medical Administrator, here at the Lawrence County Jail, Brian Luffey, denying his grievance.

(12)

36.) In Defendant Brian Luffey's denial he stated:

"Current treatment options for patients with HCV infection should discuss treatment options with a physician who is experienced in treating the disease. Treatment is recommended in patients at increased risk for cirrhosis unless there are reasons that would make treatment unsafe. According to the National Institutes of Health (N.I.H.) persons at increased risk for cirrhosis would include those with HCV infection and:

- Persistent elevation of ALT (alanine aminotransferase, a liver enzyme in the blood) 2 Lab results is not persistent.
- High levels of HCV RNA in the blood. No HCV RNA in your results." (See Exhibit "C").

(13.)

37.) Despite this policy of PrimeCare Medical's to have patients discuss their treatment options with a physician who is experienced in treating the disease, plaintiff was never sent to a physician with such qualifications.

38.) As of August 8, 2014 the plaintiff has had nine (9) ALT blood tests that all show extremely elevated ALT blood levels, which is persistent beyond question.

39.) Despite this policy of PrimeCare Medical to have those with HCV and persistent

(14.)

elevated ALT levels be seen by an experienced physician that treats the disease the plaintiff was not sent nor treated for such.

40.) Despite this policy of PrimeCare Medical, Defendant Brian Luttery stated,

"No HCV RNA in your results," (Exhibit "C")

The plaintiff's blood work never included a test for HCV RNA levels!

41.) On approximately July 24, 2014

Plaintiff received his medical records confirming his HCV RNA levels were never tested.

(15.)

42.) Defendant Brian Lottey did intentionally lie about the plaintiff having No HCV RNA in his blood.

43.) On 11/28/12, plaintiff filed his timely appeal to Warden Brian Covert per inmate handbook (page 16).

(See Exhibit "D")

44.) Plaintiff never received a response to his appeal.

45.) On 11/28/12, plaintiff filed an additional grievance requesting that it be addressed by Warden Brian Covert and not the medical staff. No response given.

(See Exhibit "E")

(16.)

46.) On 5/30/13, the plaintiffs situation still having gone unresolved, filed another grievance. (SEE EXHIBIT "F")

47.) On 6/3/13, Assistant Warden Jason Hilton denied plaintiffs grievance. (SEE EXHIBIT ~~██████~~ "F" backside)

48.) On 6/4/13, plaintiff filed a timely appeal. (SEE EXHIBIT "G")

49.) Plaintiff continues to suffer pain, anxiety, and irreparable harm due to his serious medical need, Hepatitis C, having gone untreated.

50.) The plaintiffs right to Due

(17.)

Process under the 14th Amendment to the United States Constitution has been, and still is, being violated as a pretrial detainee.

V. EXHAUSTION OF LEGAL REMEDIES.

51) Plaintiff, SHAWN THOMAS MOORE, used the inmate grievance procedure available at the Lawrence County Jail, per inmate handbook, page 16, to try and resolve the problem. On 11/22/12 the plaintiff presented the issues related to this complaint. On 11/28/12 plaintiff received a denial of his

(18)

grievance. On 11/28/12, plaintiff appealed the denial of his grievance and got no relief. On 5/30/13, plaintiff's situation still having gone unresolved filed another grievance and still got no relief. A final timely appeal followed on 6/4/13 with no relief.

VI. LEGAL CLAIMS

52) Plaintiff realleges and incorporates by reference paragraphs 1-51.

53.) The Deliberate Indifference of the defendants to the plaintiff's serious medical needs have violated the

(19.)

plaintiffs right to Due Process under the 14th Amendment to the United States Constitution as a pretrial detainee.

54) The plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs described herein.

Plaintiff has been and continues to be irreparably harmed by the conduct of the defendants unless this court grants the declaratory and injunctive relief plaintiff seeks and any additional equitable relief this Honorable Court deems fit.

(20)

VII. PRAYERS FOR RELIEF

55) Wherefore, plaintiff respectfully prays that this honorable court enter judgement granting plaintiff:

56) A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.

57) A preliminary and permanent injunction ordering defendants to have plaintiff's serious medical condition evaluated by a qualified physician experienced in treating the disease who is not

(21.)

associated with PrimeCare Medical Inc.

58.) Nominal damages against each defendant.

59.) Compensatory damages against each defendant.

60.) Punitive damages against each defendant.

61.) A jury trial on all issues triable by jury.

62.) Any additional relief this court deems just, proper, and equitable.

Dated: August 13th, 2014

Respectfully Submitted,
Shawn Moore
SHAWN MOORE
111 S. Milton St.
New Castle, PA 16101

(22)

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at New Castle, PA on August 13th, 2014.

SHAWN MOORE

Shawn Moore

CERTIFICATE OF SERVICE

I hereby certify on the August 13th, 2014 that the foregoing Motion to Amend / Amended Complaint / Certificate has been served on the following by depositing the same in the United States Mail, postage prepaid, in New Castle, PA on August 13th, 2014.

Terry C. Cavanaugh, Esquire
Marshal, Dennehy, Warner, Coleman & Goggin, P.C.
U.S. Steel Tower
600 Grant Street, Suite 2900
Pittsburgh, PA 15219
Counsel for Susan Rossino, M.D.

John R. Winosky, Esquire
301 Market St.
P.O. Box 109
Lemoyne, PA 17043-0109

Respectfully submitted,
Shawn Moore
SHAWN MOORE
111 S. Milton St.
New Castle, PA 16101